

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 4148 of 1984

Date of decision: 11-09-96

For Approval and Signature

The Hon'ble Mr. Justice S. K. KESHOTE

1. Whether Reporters of Local papers may be
2. To be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of the judgment?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 or any order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

RAVJIBHAI VIRIJIBHAI DESAI

Versus

AMAR SEVA SAHKARI MANDALI LTD

Appearance:

MR MC BHATT for Petitioner
MR CC KAMDAR for Respondent No. 1
None present for Respondent No. 2

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 11/09/96

ORAL JUDGEMENT

The petitioner was a member of the respondent No.1 - Society. Respondent No.1 Society instituted proceedings under section 96 of the Gujarat Cooperative Societies Act, 1961 ('the Act') before the Board of Nominee of the District Registrar, Rajkot Division and prayed for decree of Rs.18,832.89 ps. The petitioner

filed written statement in those proceedings, but he did not remain present at the hearing. After examining the evidence produced by the Society, ex parte award for Rs.18,832.89 ps. with cost and interest was passed against the petitioner. The petitioner challenged the decree by filing appeal before the Gujarat Cooperative Tribunal at Ahmedabad. The Tribunal dismissed the appeal on 28th June, 1984. Hence this petition.

Heard the learned counsel for the parties.

2. There is concurrent finding of fact of both the authorities below that the petitioner has taken loan from the Society and the same has not been repaid. Not only this, the petitioner has not produced any evidence in support of the plea which has taken in the written statement. Though the petitioner filed written statement, he allowed the matter to proceed ex parte. I do not find any error or illegality in the order made by both the authorities which calls for interference of this court. It is a developing tendency among the people to take loan from cooperative societies and other financial institutions and not to repay the same in time. When recovery proceedings are started they take all possible objections. Such a tendency should be discouraged. No interference of this court with the concurrent findings of fact by both the authorities is called for.

3. In the result this special civil application fails and the same is dismissed. Rule discharged. Ad interim stay granted by this court stands vacated. No order as to costs.

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